



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON, COMMISSIONER

P.O. Box 94214
BATON ROUGE, LOUISIANA 70804-9214
PHONE (225) 342-5900
FAX (225) 342-3078
<http://www.lidi.state.la.us>

Directive 199 - AMENDED

July 28, 2006

**RE: MANDATORY REQUIREMENT TO
EXTEND PRESCRIPTIVE PERIOD FOR LOUISIANA INSUREDS
TO FILE SUIT OR LEGAL ACTION
FOR RECOVERY OF DAMAGES CAUSED BY
HURRICANE KATRINA AND/OR HURRICANE RITA**

**TO: ALL AUTHORIZED PROPERTY AND CASUALTY INSURERS AND
APPROVED UNAUTHORIZED PROPERTY AND CASUALTY
INSURERS (SURPLUS LINES INSURERS)**

**RE: NOTICE OF MANDATORY REQUIREMENT TO EXTEND
PRESCRIPTION PERIOD FOR LOUISIANA INSUREDS TO FILE SUIT
OR LEGAL ACTION FOR RECOVERY OF DAMAGES CAUSED BY
HURRICANE KATRINA OR HURRICANE RITA**

STATUTE AND REGULATION REFERENCES: LSA-R.S. 22:2; LSA-R.S. 22: 5; LSA-R.S. 22:658.3; LSA-R.S. 22:691; LSA-C.C. Art. 3467; LSA-C.C. Art. 3493; LSA-C.C. Art. 3499; LSA-C.C.P. Art. 927; Act 2006 No. 739; and Act 2006 No. 802

I hereby amend Directive 199 to clarify the purpose and intent and to clarify the legal effect of the Stipulation and to provide an alternative mechanism whereby insurers can comply with Directive 199.

I reiterate and re-urge all of the factual and legal statements made in the original version of Directive 199 and incorporate them by reference hereto as if set forth herein *in extenso*. During the last several weeks, as many insurers are complying with Directive 199 and filing the Stipulation, it has been brought to my attention that there is need to clarify the effect of the Stipulation. Some insurers may have misinterpreted the legal impact of Directive 199 and its Stipulation.

There is nothing in Directive 199 that is intended to place an insurer in the position of having unilaterally enacted a permanent new prescriptive period that supersedes the existing legislative pronouncements.

Additionally, there is nothing in Directive 199 that is intended to place an insurer in the position of having improperly altered a contractual provision in an insurance contract.

I declare that as a matter of standard practice all insurers have, from time to time, extended the statutorily imposed period of time within which an insured can file suit by entering into stipulations with their insureds whereby insurers agree that an exception, bar or defense of prescription will not be interposed to any suit or legal action taken outside the generally recognized prescriptive time period.

The purpose and intent of Directive 199 was to provide for insurers to unequivocally verify that the insurer will not raise prescription, which is a personal defense that the insurer can waive by unilateral act, as an exception, bar or defense to any suit or legal action taken by a Hurricane Katrina and/or Hurricane Rita claimant that is filed within the new time frame set forth in Directive 199. To reiterate, Directive 199 established the new time frame within which an insured can file suit or take legal action with regard to a Hurricane Katrina and/or Hurricane Rita claim.

Directive 199 requires that Louisiana insureds shall have until August 30, 2007 to file suit or legal action with regard to a claim for damages under a property insurance policy for damages caused by Hurricane Katrina, and Louisiana insureds shall have until September 25, 2007 to file suit or legal action with regard to a claim for damages under a property insurance policy for damages caused by Hurricane Rita.

Accordingly, I hereby issue Directive 199 - Amended:

1. On or before August 11, 2006, all authorized property and casualty insurers and all surplus lines property and casualty insurers doing business in Louisiana in 2006 shall file with the Louisiana Department of Insurance (LDOI) a written document, in the form of either a Stipulation or a certification by letter or other similar writing, that unequivocally expresses that the insurer will not raise prescription, which is a personal defense that the insurer can waive by unilateral act, as an exception, bar or defense to any suit or legal action taken by a Hurricane Katrina and/or Hurricane Rita claimant that is filed within the new time frames set forth in the original version of Directive 199.
2. The person executing the Stipulation or certification shall set forth his office or title and shall provide language that verifies to me that he is cloaked with the authority to execute said document on behalf of the insurer.
3. The preferred mechanism remains the Stipulation which, if utilized, shall state the following:

STIPULATION

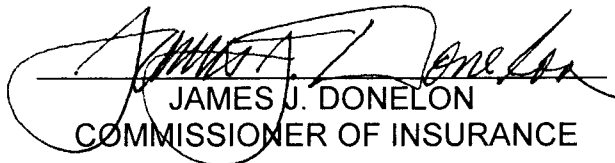
From: Name of insurance company

Pursuant to Directive 199, issued by Commissioner of Insurance James J. Donelon, any insured under a property and casualty policy insuring property in Louisiana shall have until August 30, 2007 to file suit or legal action with regard to any claim for property damages caused by Hurricane Katrina, and shall have until September 25, 2007 to file suit or legal action with regard to any claim for property damages caused by Hurricane Rita.

4. An insurer who chooses to utilize a certification shall embody within the certification the unequivocal statement relative to the new dates within which an insured can file suit or take legal action. An example of a letter certification that will suffice has been placed on the LDOI Web site at <www.lidi.state.la.us> under the link to Hurricane Katrina and Hurricane Rita, or may be obtained by contacting the LDOI.
5. All Stipulations or certifications should be directed to Mrs. Kathlee Hennigan, Director Compliance, (1702 N. Third Street), P.O. Box 94214, Baton Rouge, LA 70804. As each insurer files the Stipulation or certification with the Department, the name of the insurer will be placed on the Department's Web site so that insureds will have access to the fact that the insurer has extended the prescriptive period for Hurricane Katrina to August 30, 2007 and for Hurricane Rita to September 25, 2007.
6. The new prescriptive period for suit or legal action on a Hurricane Katrina property damage claim shall be established as August 30, 2007.
7. The new prescriptive period for suit or legal action on a Hurricane Rita property damage claim shall be established as September 25, 2007.
8. Any authorized insurer who fails or refuses to comply with Directive 199, as Amended, shall be subject to any and all enforcement authority vested in the Commissioner under the Louisiana Insurance Code.
9. Any surplus lines insurer who fails or refuses to comply with Directive 199, as Amended, shall be subject to any and all enforcement authority vested in the Commissioner under the Louisiana Insurance Code.
10. Authorized insurers or surplus lines insurers that did not write a property and casualty insurance policy that was in effect when Hurricane Katrina and/or Hurricane Rita caused damage in Louisiana, or as of July 11, 2006 have had no claim filed against it for damage caused by Hurricane Katrina and/or Hurricane Rita, shall not be required to file a Stipulation or certification as required by Directive 199, as Amended.

11. Any questions regarding this Directive 199, as Amended, should be directed to either Warren E. Byrd, Esq., Executive Counsel for the Department of Insurance, at <wbyrd@ldi.state.la.us> or by telephone at (225) 342-7276, or Walter Corey, Esq., Attorney for the Department of Insurance, at <wcorey@ldi.state.la.us> or by telephone at (225) 342-4673, or Kathlee Hennigan, Director of Forms and Compliance for the Department of Insurance, at <khennigan@ldi.state.la.us> or by telephone at (225) 342-1258.
12. You are hereby directed to immediately bring your practice into compliance with the unequivocal purpose and intent of Directive 199, as Amended. Please be governed accordingly.

Baton Rouge, Louisiana this 28th day of July 2006.


JAMES J. DONELON
COMMISSIONER OF INSURANCE